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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,749	11/17/2003	Douglas Thai	PAT-1241CIP4-CON2	3361

7590

03/16/2005

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EXAMINER

MILLER, BENA B

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/714,749

Applicant(s)

THAI, DOUGLAS

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 27-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: Marked copy of US Patent D353,166 figure 1 attached to Detailed Office Action.

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is lack of antecedent basis for the limitation "the power source".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwak (US Patent D353,166).

Regarding claims 27 and 29, Kwak teaches in the figures a bubble producing assembly comprising a housing, a frame having one leg, two bubble producing devices each having one loop, the bubble producing devices positioned in a spaced-apart manner and the frame defining an opening shown in marked up figure 1.

Regarding claim 28, the Examiner takes the position that the bubble producing device of Kwak has a plurality of ridges thereon.

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Claims 33, 34, 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Lei (US Patent 5,462,469).

Regarding claim 33, Lei teaches in the figures a bubble producing assembly comprising a housing having an outlet (fig.4), an air generator (24,26), a bubble producing device (52), a first activator (30), a reservoir (16), a pump system (14; col. 4, lines 65-67) and a second activator (12; col. 3, par. 1).

Regarding claim 34, Lei further teaches a power source (28).

Regarding claim 36, Lei further teaches the pump system delivers a stream of liquid out of the outlet (col. 2, lines 65-67).

Regarding claim 37, Lei further teaches the first and second activators are positioned outside the housing (fig.4).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 27-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Rich et al (US 6,200,184).

Regarding claims 27 and 29, Rich et al teaches in the figures a bubble producing assembly comprising a housing (16), a frame (20A, 20B, 21) having one leg (32), two bubble producing devices (18) each having one loop, the bubble producing devices positioned in a spaced-apart manner (fig.7) and the frame defining an opening (fig.7).

Regarding claim 28, Rich further teaches a plurality of ridges (22).

Regarding claim 30, Rich further teaches a fan positioned inside the opening (fig.7).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwak or Rich et al.

Kwak or Rich et al does not disclose expressly that the two to four bubble producing devices comprises exactly four and the one to four legs comprises exactly four legs. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the two to four bubble producing devices comprise exactly four and the one to four legs comprise exactly four legs because Applicant does not disclosed that having the two to four bubble producing devices comprise exactly four and the one to four legs comprise exactly four legs provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected the Kwak or Rich device and the applicant's invention, to perform equally well because both would perform the same function of producing bubbles.

Therefore, it would have been prima facie obvious to modify Kwak or Rich to obtain the invention as specified in claims 31 and 32 because such modification would

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have been considered a mere design consideration which fails to patentably distinguish over the prior art of Kwak or Rich.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lei (US Patent #5,462,469) in view of Kinberg (US Patent #4,700,965).

Lei teaches in figures most of the features of the disclosed invention, except for a motor coupled to the air generator. Kinberg teaches a bubble apparatus having a fan (70) connected to a motor (72) wherein the fan provides airflow in order to produce bubbles (col. 2, par. 6 and 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a motor as taught by Kinberg with the air generator of Lei for the purpose of providing airflow in order to produce bubbles.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Bena Miller  
Examiner  
Art Unit 3714

bbm  
March 14, 2003